

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.14043 of 2004

Between:

A YESHA SIDDIQUA, D/o. Riyazuddin Ahmed,
R/o. 16-9-580, Old Malakpet, Near Qutub Shahi Mosque,
Water Tank, Hyderabad.

..... PETITIONER

AND

The Regional Passport Officer, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue and appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in not issuing new passport on fresh application to the petitioner with date of birth entered as 2-8-1986 instead of 2-8-1987 as highly illegal and arbitrary, Any other relief deemed fit and proper be also granted to the petitioner.

Counsel for the Petitioner:MR.ABDUL NAJEEB KHAN

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14043 OF 2004

ORDER:

This writ petition is filed seeking a declaration that the action of the Passport Issuing Authority, respondent herein, in not issuing new passport to the petitioner with her date of birth as 2.8.1986 instead of 2.8.1987 as illegal and arbitrary.

It is the case of the petitioner that she was born on 2.8.1986. In 2003, she applied for passport and in the application for passport inadvertently she mentioned the date of birth as 2.8.1987. Accordingly, passport bearing No.E 5598835 was issued on 20.6.2003 showing her date of birth as 2.8.1987. She approached the respondent on 5.8.2004 with a request to issue new passport with correct date of birth. The respondent refused to receive the application. Hence, the present Writ Petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

- a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
- b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
- c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner has produced Birth Certificate issued by Registrar, Births and Deaths, Circle No.6, Municipal Corporation of Hyderabad, dt.20.8.1990 to prove that her correct date of birth is 2.8.1986. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18-4-2001.

Accordingly, this writ petition is also disposed of directing the respondent to receive the application of the petitioner and pass appropriate orders in accordance with the Circular referred to hereinabove within a period of four weeks from the date of receipt of application from the petitioner. There shall be no order as to costs.

(V.V.S.RAO, J)

10.8.2004

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NOTE:CC in one week.

(B.O)

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